

(4) The participant has a contract to receive a guaranteed payment for all or a portion of the crop;

(5) A crop was late-planted;

(6) Unharvested acreage was not timely appraised; or

(7) Other appropriate causes exist for such assignment as determined by the Deputy Administrator.

(j) For peanuts, the actual production is all peanuts harvested for nuts, regardless of their disposition or use, as adjusted for low quality.

(k) For tobacco, the actual production is the sum of the tobacco: marketed or available to be marketed; destroyed after harvest; and produced but unharvested, as determined by an appraisal.

**§760.814 Calculation of acreage for crop losses other than prevented planted.**

(a) Payment acreage of a crop is limited to the lesser of insured acreage or NAP covered acreage of the crop, as applicable, or actual acreage of the crop planted for harvest.

(b) In cases where there is a repeat crop or a multiple planted crop in more than one planting period, or if there is multiple cropped acreage meeting criteria established in paragraph (c) or (d) of this section, each of these crops may be considered separate crops if the county committee determines that all of the following conditions are met:

(1) Were planted with the intent to harvest;

(2) Were planted within the normal planting period for that crop;

(3) Meet all other eligibility provisions of this part including good farming practices; and

(4) Could reach maturity if each planting was harvested or would have been harvested.

(c) In cases where there is multiple-cropped acreage, each crop may be eligible for disaster assistance separately if both of the following conditions are met:

(1) The specific crops are approved by the State committee as eligible multiple-cropping practices in accordance with procedures approved by the Deputy Administrator and separately meet all requirements, including insurance or NAP requirements ; and

(2) The farm containing the multiple-cropped acreage has a history of successful multiple cropping more than one crop on the same acreage in the same crop year, in the year previous to the disaster, or at least 2 of the 4 crop years immediately preceding the disaster crop year based on timely filed crop acreage reports.

(d) A participant with multiple-cropped acreage not meeting the criteria in paragraph (c) of this section may be eligible for disaster assistance on more than one crop if the participant has verifiable records establishing a history of carrying out a successful multiple-cropping practice on the specific crops for which assistance is requested. All required records acceptable to FSA as determined by the Deputy Administrator must be provided before payments are issued.

(e) A participant with multiple-cropped acreage not meeting the criteria in paragraphs (c) or (d) of this section must select the crop for which assistance will be requested. If more than one participant has an interest in the multiple cropped acreage, all participants must agree to the crop designated for payment by the end of the application period or no payment will be approved for any crop on the multiple-cropped acreage.

(f) Benefits under this part apply to irrigated crops where, in cases determined by the Deputy Administrator, acreage was affected by a lack of surface irrigation water due to drought or contamination of ground water or surface irrigation water due to saltwater intrusion. In no case is a loss of ground water, for any reason, an eligible cause of loss.

**§760.815 Calculation of prevented planted acreage.**

(a) When determining losses under this part, prevented planted acreage will be considered separately from planted acreage of the same crop.

(b) For insured crops, or NAP covered crops, as applicable, disaster payments under this part for prevented planted acreage will not be made unless RMA or FSA, as applicable, documentation indicates that the eligible participant received a prevented planting payment

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under either NAP or the RMA-administered program.

(c) The participant must prove, to the satisfaction of the county committee, an intent to plant the crop and that such crop could not be planted because of an eligible disaster. The county committee must be able to determine the participant was prevented from planting the crop by an eligible disaster that:

(1) Prevented other producers from planting on acreage with similar characteristics in the surrounding area;

(2) Occurred after the previous planting period for the crop; and

(3) Unless otherwise approved by the Deputy Administrator, began no earlier than the planting season for that crop.

(d) Prevented planted disaster benefits under this part do not apply to:

(1) Acreage not insured or NAP covered;

(2) Any acreage on which a crop other than a cover crop was harvested, hayed, or grazed during the crop year;

(3) Any acreage for which a cash lease payment is received for the use of the acreage the same crop year, unless the county committee determines the lease was for haying and grazing rights only and was not a lease for use of the land;

(4) Acreage for which the participant or any other person received a prevented planted payment for any crop for the same acreage, excluding share arrangements;

(5) Acreage for which the participant cannot provide verifiable proof to the county committee that inputs such as seed, chemicals, and fertilizer were available to plant and produce a crop with the expectation of producing at least a normal yield; and

(6) Any other acreage for which, for whatever reason, there is cause to question whether the crop could have been planted for a successful and timely harvest, or for which prevented planting credit is not allowed under the provisions of this part.

(e) Prevented planting payments are not provided on acreage that had either a previous or subsequent crop planted in the same crop year on the acreage, unless the county committee deter-

mines that all of the following conditions are met:

(1) There is an established practice of planting two or more crops for harvest on the same acreage in the same crop year;

(2) Both crops could have reached maturity if each planting was harvested or would have been harvested;

(3) Both the initial and subsequent planted crops were planted or prevented planting within the normal planting period for that crop;

(4) Both the initial and subsequent planted crops meet all other eligibility provisions of this part including good farming practices; and

(5) The specific crops meet the eligibility criteria for a separate crop designation as a repeat or approved multiple cropping practice set out in § 760.814.

(f)(1) Disaster benefits under this part do not apply to crops where the prevented planted acreage was affected by a disaster that was caused by drought unless on the final planting date or the late planting period for non-irrigated acreage, the area that was prevented from being planted had insufficient soil moisture for germination of seed and progress toward crop maturity because of a prolonged period of dry weather;

(2) Verifiable information collected by sources whose business or purpose is to record weather conditions, including, but not limited to, local weather reporting stations of the U.S. National Weather Service.

(g) Prevented planting benefits under this part apply to irrigated crops where adequate irrigation facilities were in place before the eligible disaster and the acreage was prevented from being planted due to a lack of water resulting from drought conditions or contamination by saltwater intrusion of an irrigation supply resulting from drought conditions.

(h) For NAP covered crops, prevented planting provisions apply according to part 718 of this chapter.

(i) Late-filed crop acreage reports for prevented planted acreage in previous years are not acceptable for CDP purposes.